



June 3, 1999

Mr. Bernardo J. Garcia  
Senior Assistant County Attorney  
Harris County  
1019 Congress, 15<sup>th</sup> Floor  
Houston, Texas 77002

OR99-1546

Dear Mr. Garcia:

You ask whether certain information is subject to required public disclosure under the Texas Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 124595.

The Harris County Juvenile Probation Department (the “department”) received an open records request for the “medical records” of the requestor’s son, who is under the supervision of the department. In response to the request, you seek to withhold both the child’s medical records and records of the child’s psychiatric evaluations, which we assume for purposes of this ruling to be responsive to the request. You contend the requested records are excepted from required public disclosure pursuant to section 552.101 of the Government Code in conjunction with, *inter alia*, section 58.005(a) of the Family Code.

Section 552.101 of the Government Code protects “information considered to be confidential by law, either constitutional, *statutory*, or by judicial decision.” (Emphasis added.) Section 58.005(a) of the Family Code provides:

(a) Information obtained for the purpose of diagnosis, examination, evaluation, or treatment or for making a referral for treatment of a child by a public or private agency or institution providing supervision of a child by arrangement of the juvenile court or having custody of the child under order of the juvenile court may be disclosed only to:

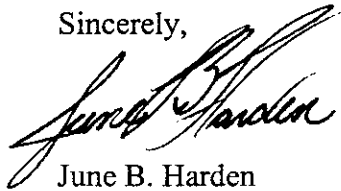
- (1) the professional staff or consultants of the agency or institution;
- (2) the judge, probation officers, and professional staff or consultants of the juvenile court;
- (3) an attorney for the child;

- (4) a governmental agency if the disclosure is required or authorized by law;
- (5) a person or entity to whom the child is referred for treatment or services if the agency or institution disclosing the information has entered into a written confidentiality agreement with the person or entity regarding the protection of the disclosed information;
- (6) the Texas Department of Criminal Justice and the Texas Juvenile Probation Commission for the purpose of maintaining statistical records of recidivism and for diagnosis and classification; or
- (7) with leave of the juvenile court, any other person, agency, or institution having a legitimate interest in the proceeding or in the work of the court.

You contend that the medical and psychiatric records at issue here relate to the “diagnosis, examination, evaluation, or treatment or for making a referral for treatment” of the requestor’s son for purposes of section 58.005(a). We agree. Furthermore, in this instance, the requestor is not among the listed individuals authorized to obtain these records. We therefore, conclude that, absent authorization from the juvenile court having jurisdiction over the child, the department must withhold the requested records pursuant to section 552.101 of the Government Code.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



June B. Harden  
Assistant Attorney General  
Open Records Division

JBH/RWP/eaf

Ref.: ID# 124595

encl.: Submitted documents